SPIRIT OF THE PRESS.

EDITORIAL OPINIONS OF THE LEADING JOURNALS UPON CURRENT TOPICS—COMPILED EVERY DAY FOR THE EVENING TELEGRAPH.

THE LORDS ON THE AMERICAN TREATY.

From the London Spectator.

The debate, so far from answering the purpose of its mover, did indeed practically redound greatly as well to the credit of the Ministry and the Foreign Office as to the credit of the British Commissioners, whose chief is to be rewarded with a marquisate for the great service of re-establishing cordial relations with America. There were only two really grave points made against the treaty; first, Lord Russell's, that we had established a precedent for submitting our international actions to be dealt with by *ex-post facto* law, of which Germany or any other power might avail herself whenever she chooses to make an unreasonable demand upon us; the other, Lord Carnarvon's, that, in deference to the supercilious *sic volo, sic jubeo* of the United States, we had withdrawn the Canadian claims against the United States on account of the Fenian invasion from the purview of the treaty, and left them still an unadmitted and, of course, unsettled outstanding claim. In relation to both these considerations, we regard the reply of the Government as adequate, and in relation to the first, triumphant.

The consent of the British Government to let the escape of the Alabama and the other Confederate cruisers from our ports be judged by principles of international law which were not at the time either admitted by ourselves or laid down in any of the books was, of course, a very courageous diplomatic act, to be justified only by a plea of intrinsic justice, involving as a natural consequence high national advantage. But, as Lord Granville showed, a sound plea may be urged for the *ex post facto* principle adopted. We had already, and without any reference to American pressure, found it desirable to amend and strengthen our Foreign Enlistment Act, and in amending and strengthening it we freely adopted the very principle by which we now propose to measure our past conduct in relation to the Alabama. But it is demanded, Why should we have made the effect of our new rule retrospective? Was not that the mere bribe of English timidity offered to American overbearingness? Clearly not. We are now anxious to agree with America, for our own sakes no less than hers, to abide by the principle of international law just recognized by ourselves in our municipal law; we are anxious that when next England is at war and America at peace, we should have the right to claim from America the honest, and effectual suppression of all privateering attacks on our commerce, and to indulge a confident hope that that claim would be attended to. But, replies Lord Salisbury, as America has been contending for this principle, even when we repudiated it, we should have the advantage of it for the future, in spite of our refusing to be bound by it in the past. That, we confess, seems to us an utterly ignoble as well as a rather unsafe argument for stealing a march on America. Here is a principle reciprocally useful to two countries, by which either would benefit greatly when at war, and by the non-recognition of which either would lose greatly when at war—is it generous for either of them to choose a time for first acknowledging it when all the advantage which it has steadily refused to its ally begins, under somewhat anxious circumstances, to look specially attractive to itself? If two neighbors had discovered a source of malaria close at their doors which they could find adequate means by joint action to remove—would it seem fair that after a typhoid fever had run through one house, causing much misery and expense, the other, in apprehension of the same event, should suddenly consent to join in the sanitary reform, without offering to defray any part of the cost which his previous refusal has entailed on his neighbor? Yet that is what Lord Salisbury not only approves, but supports, on the principle that the last to come into the arrangement will reap the whole advantage of his neighbor's good principle, whether he himself agrees to pay part of the cost caused by his delay or not. To our mind, if England really thinks,—as she evidently does,—that the principle now adopted is right, and that had we adopted it sooner we might have saved a good deal of suffering and loss to America, it is not only not a weak concession, but an act of but little beyond bare justice, to let it apply to our conduct in the recent war, as well as to the future. Do we want to make the Americans feel that we have outwitted them; or, on the other hand, that we can compete with them in generosity as well as in trade or in war? If the former, the conduct Lord Salisbury hints as so advantageous to us would certainly be the best to pursue, but then it would have left us worse friends with America than ever. If the latter, we had but the course open which the Commissioners have actually pursued,—namely, to convince America that it is no one-sided advantage we are seeking, that we are looking for her welfare no less truly than for our own; that in adopting the new principle and securing its advantages for ourselves in future, we are willing to take upon ourselves the penalty of our dilatory course in not securing its advantages for American purposes during the immediate past. But then the injustice of an *ex post facto* punishment? Well, an *ex post facto* punishment inflicted by one set of people upon another set of people is, no doubt, very unfair indeed. The sufferers have had no notice of what they had to expect, and are punished by a law which for them had no existence. But this has no application to the case where the *ex post facto* penalty is self-inflicted, where it is voluntarily assumed, in fact, instead of inflicted. It was the fault of the country, through its Government, that we only amended our Foreign Enlistment law too late for America to get the benefit of the amendment. Where is the injustice in the willingness of the Government and the country to bear some of the burden of their own mistake? It seems to us that the retrospective bearing given to the amended law is the most honorable feature in the treaty. As for the argument that we might be compelled by our own precedent to judge of our export of arms during the Franco-German war by an *ex post facto* law made, at German instance, to condemn it, Lord Granville's answer is complete, namely, we do not admit that our law is inadequate now; we think it quite strong enough, and in need of no amendment. We ask for no stronger law in Germany. Till we are dissatisfied with our law as it is, there is no danger that we shall ourselves condemn our own principle. And when we do, it would be time enough to think of affording Germany reparation.

As to the exclusion of the Canadian claims for the Fenian invasion of Canada from the scope of the treaty, it is impossible not to feel annoyance and mortification. Unquestionably these claims ought to have been included and arbitrated on under the machinery of the treaty, and if any effort were wanting towards success in getting this included, the failure was not creditable to our Commissioners. On the other hand, we know very well the "political" moves at work to keep the admission of these claims out of the treaty. We know that the Irish party in the United States would have raised a great hue and cry against any government that admitted them, and we may look upon the United States Government in this matter very much as we do upon an Irish employer who has received notice from the Ribbonmen to say that if he takes a certain person into his employment, he will be a dead man in a few months' time. Granted that this was so, and that our Commissioners could not cure it, or hope to cure it, would there have been any sense in breaking off the negotiations on this point alone? Is there any real wisdom in refusing half a loaf because you cannot get a whole? in failing to recognize the advantage which a loaf has over no bread? If there are to be outstanding subjects of dispute, why not make them as few as possible? On the points agreed upon we have conceded something, but America has also conceded something. We are to have a genuine arbitration on the San Juan question. We are to hear no more of the absurd grievance of our premature recognition of the belligerent rights of the South. We are to have no bill for general damages—injuries to trade and so forth—sent in to us, though we may be liable for the particular devastations of the Alabama. On the fisheries question we are to have our concessions valued, and the Dominion is to receive the balance in their favor in cash. Why should we fail to profit by these concessions, and to cement a real friendship between the two countries simply because the American Government has not the courage to face the hostility of the Irish vote? Is it nothing to us to regain the feeling of security as respects our relations with America?

Is it nothing to feel that if the cloud should again gather and break over Europe, there is no danger in our rear to withdraw our attention from the danger in front? The House of Lords knew well that this, far from being of no importance, is a matter of the first significance, and that if our Government had really broken off negotiations on the Fenian question, the very speakers who now condemn Lord Granville for pliancy and weakness would have been the first to condemn him still more severely for petulance and a total inability to estimate the true proportions of affairs. Lord Russell may believe those who tell him that this treaty has struck a fearful blow at the power and prestige of England, if he will; but the House of Lords was quite keen enough to discern that this is but the petulant assertion of a few bitter critics, while the great mass of sensible men on both sides of the Atlantic are well aware that both England and America have gained vastly in freedom of action and in might by the re-establishment of friendship and the adoption of a policy of co-operation.

THE AMERICAN TREATY.

From the Pall Mall Gazette.

There was a single passage in the speech of Earl Russell which enables the reader of the debate in the House of Lords to see his way through the contradictory opinions of the disputant speakers. "What would be said," asks Lord Russell, "if a bill of indictment were sent up to the grand jury at Liverpool, charging a workman with intimidation committed in 1869 under an act passed in 1871? The grand jury would at once ignore such a bill, and would hold it contrary to every principle of justice that a man who had committed some act not at the time penal or criminal, should be punished under a statute passed some years subsequently." The veteran statesman who suggested this analogy may very well have conversed with Jeremy Bentham, and very possibly did so; but he is clearly under one of the delusions which Jeremy Bentham made it the business of his life to expose and denounce. Lord Russell plainly states his belief that there is a strict analogy between the laws of nations and a statute of the English Parliament. Bentham would have urged that the comparison fails in the one point which is the most important of all. There is no punishment for the breach of a rule of international law. There is no power having common authority to enforce such a rule. There is no court to ascertain it by judicial declaration, nor, even if there were, is there any officer of international justice to execute its decrees. No practical mischief ordinarily comes of speaking of the law of nations as if it were really law, and it is even possible that the habit of speech on the subject which long since established itself may on the whole add to the respect which international law receives. But to press the analogy so hard as to found on it a condemnation of the Treaty of Washington is to blind oneself completely to the source of the difficulty out of which the Alabama dispute arose. The law of nations is a system of rules directly enforced by opinion only, although every now and then one of the results of opinion is the infliction of very distinct evil on the breaker of the law. But exactly because it depends so closely on opinion, international law falls into the greatest uncertainty wherever opinion changes on a particular point.

Fortunately for mankind, opinion does not often undergo such change, and on all the chief branches of conduct which nations have to follow the rule is clear, and the disapprobation called forth by a breach of it is peremptory and prompt. But no dispassionate student of the Alabama controversy will deny that on the question which provoked it opinion was in a very exceptional condition. There was scarcely a single civilized State which had not admitted that it was wrong in a neutral to allow ships of war to be equipped in his ports and despatched from them. Foreign enlistment acts, as these are called, had been passed everywhere. What, however, civilized States had not universally allowed was that the neutral could be called to account for the neglect to enforce a domestic statute by the belligerent who had suffered by its non-observance. Each State had deferred to a particular opinion of its own citizens, but all had not made up their mind to defer to the same opinion in so far as it was entertained by the people of other countries. So delicate a distinction could not have been long maintained; and international law on the subject of the equipment of armed ships of war had in fact just got into the condition in which, if it had been true municipal law, it would have been on the eve of being changed by the Legislature. There is not, however, any true legislature for the community of nations; and one of the consequences of this is that nations deal with changes of opinion in international matters just as men deal with changes of opinion on rules of private morality. They never, or hardly ever, admit that opinion has changed at all. They assert that the new rule was always the rule. Nobody who has even superficially followed the history of international law ought to be surprised that at the very same moment the rule applicable to the Alabama case was honestly believed in the United States to be one and in this country to be another. The truth was, as we put it on a former occasion, that opinion had altered unequally in America and England. The expression and reflection of this fact we find in the sixth article of the Treaty of Washington, providing that two new rules shall be added to the body of international law, and that they shall be applied retrospectively to the Alabama case.

Loose and vague impressions of the true character of the law of nations are, we think, at the bottom of two other objections to the treaty, which seem to be by some deemed formidable. It is said that we have put ourselves out of court if any diplomatist should repeat the demands of Count Bernstorff in some future war. But, as we have before pointed out, Count Bernstorff by his appeal to the supposed exceptional friendliness of this country to one belligerent impliedly admitted that there had been no change of opinion among nations on the ordinary rules concerning contraband of war. There was nothing whatever in the alleged German grievance which gave it the proportions which the American remonstrances acquired through the virtual universality of Foreign Enlistment acts. The complaint, too, that the question of international law was not referred to arbitration, as well as that of fact, seems inconsistent with any clear appreciation of the nature of the international system. There is no real resemblance between a true court of justice and an artificial tribunal such as the authors of this suggestion propose. It may serve, as any other body of men would serve, for the decision of disputes of fact, but every real judicial tribunal has confided to it a portion of legislative power without which hardly any question of law could be brought to a decision. No such delegation of legislative authority can take place in the case of nations. England or the United States might possibly submit for the moment to the award of arbitrators chosen by themselves, but for international purposes it would be useless.

THE DEBATE IN THE LORDS ON THE TREATY.

From the London Saturday Review.

Lord Salisbury took no flattering view of English diplomacy when he declared, not without a certain amount of truth, that many politicians are disposed to treat the Americans on all occasions as spoilt children. Unfortunately it is impossible to give to the conduct of the Government an interpretation even moderately flattering to national vanity. Parents and friends spoil children through culpable indulgence; but men yield to overbearing strength only through fear. It is true that the deferential flatterers of the people of the United States habitually attribute to the objects of their adulation an utter want of moral principle, and an unscrupulous determination to have their own way in all things; but their estimate of American character, if not morally elevated, always assumes the expediency of yielding to any demand which may be preferred on behalf of the United States. Nothing has been gained by the treaty except temporary relief from the supposed danger of an unprovoked invasion of Canada. Earl de Grey and the Duke of Argyll can scarcely have been serious in their contention that the establishment of the new rules of international law is a benefit rather to England, which is to be fined for breaking them, than to America, which has obtained satisfaction in full for all her demands. If the rules are equitable and beneficial, both parties are equally interested in enacting them for the future; and the American Government obtain an unqualified advantage by making them retrospectively applicable to the events of the civil war. The Fenian claims are abandoned; the fisheries are given up without a renewal of the Reciprocity treaty; and an apology is made for acts which every previous English Government has systematically defended as lawful. It would perhaps have been in better taste to have selected some other occasion for the announced elevation of Lord de Grey by a step in the peerage. If there were marquises in the United States Mr. Hamilton Fish would have a better claim to titular promotion.

It is probably true that the Government and the commissioners have secured the consideration for which they have conceded everything which their predecessors had refused. It is due to the more reputable section of American politicians to admit that they have thus far displayed a certain magnanimity in the celebration of their decisive diplomatic victory. It has for the present become an accepted commonplace that the settlement embodied in the treaty is consistent with the honor and self-respect of two great powers. Some of the commissioners themselves have used similar language on public and festive occasions; and they are entitled to gratitude for abstaining from all offensive boasts. Their own practice entirely contradicted their polite phrases; for having the honor and self-respect of their own country in some degree in their charge, they held that they best discharged their trust by steadily refusing every concession, large or small, to their English colleagues. It appears that it is for the honor of England to purchase peace and precarious goodwill at any price which may be demanded. The honor of the United States, on the other hand, is consulted by the opposite policy of declining to acknowledge liability even for connivance at the piratical Fenian expeditions. If any future causes of dissension arise, and even if the arbitrators should deliver any decisions which are favorable to England, American exigency will be rendered more stringent by the memory of its past success. The moderation of the triumphant party will be tested if the Canadian Parliament rejects the part of the treaty which relates to the fisheries. In this, as in all other instances, the commissioners gave, not gold for brass, but valuable property without return; yet Lord Carnarvon and Lord Kimberly give the Canadians sound advise in urging them to submit to the treaty. The admission of their produce into the United States, for which they have always been willing to exchange participation in their fisheries, will almost certainly be conceded in a short time, not for the benefit of the Canadians, but in the obvious interest of the Americans themselves. It might have been more gratifying to have obtained free trade in return for the surrender of the fisheries; but, on the other hand, a sound commercial system is likely to be most permanent when it is deliberately established on its own merits. Of the demerits of the rest of the treaty enough has perhaps now been said. Those who object to a timid and subservient diplomacy are not less devoted to the cause of peace than the most nervous of negotiators. As the treaty is concluded, no further advantage can be gained by dilating on its flagrant and numerous faults. Lord Russell's protest will perhaps be serviceable when some new international question requires settlement, and it is well that on grave occasions the truth should be told once for all, but not that it should be repeatedly dinned into unwilling ears.

GERMAN AND AMERICAN FESTIVALS.

From the N. Y. Tribune.

The biennial Sængerfest of the German musical societies, which is now drawing to a close, must be accepted, we suppose, as a highly successful celebration, though the weather has somewhat marred the brilliancy of the street parades, and the concerts have not been all that fancy painted them. At the contest for prizes, which in name at least was the chief object of the gathering, there was little really good singing, and at the entertainments in the Rink, though the combined choruses did some excellent work, there were blemishes that could not escape notice. Bring together sixty or seventy societies from distant cities, give them a weary journey by rail, fill their days and nights with processions, pic-nics, Rhine wine, and beer, rob them of sleep, and then set them to singing, and you certainly will not get the best they can do. There are limits to the physical endurance even of a German Sængerbruder. The shortcomings of the festival, therefore, should not be too closely criticized. When high art is combined with popular merrymaking, high art must inevitably suffer. We look rather at the motive which lies at the bottom of the feast, and we cannot help admitting that upon the whole it has done its good part, and deserves an honorable remembrance. It is art after all that brings these jolly travellers together. They have plodded along for two years, doing the hard work that true culture always demands, and when they meet for a test of their achievements, we certainly shall not complain if song and good-fellowship are celebrated together. We should not have the song at all if the junketing did not go with it. The modern contest of the Minnesingers presupposes a beer-garden and a Jones' Wood.

Popular festivals like this are among the pleasant characteristics of German life which Americans have long been urged to imitate, and this year the imitation has begun. For the first time, our native-born citizens have taken part in a Sængerfest. The extraordinary success of a Washington society, led by an American musician and composed of singers who with one or two exceptions are Americans not only by birth but by parentage, has been a notable incident of the week, and a surprise to almost everybody. It has not escaped attention, moreover, that the Americans excelled most of their competitors in quality of voice quite as much as in excellence of culture. It is well known that there are no sweeter and purer voices in the world than the best American sopranos, and we are now learning that there is nothing richer and more grateful to the ear than a good American male chorus. Within a few years the art of male part-singing has made remarkable progress in New York and other cities, and excellent clubs of young gentlemen devote themselves to it in a quiet way, rarely coming before the public, but expending their sweetness on the ears of their personal acquaintances. Whether this growing practice will expand to the dimensions of the German festivals, or American societies as a rule ever join cordially with the characteristic celebrations of their Teutonic brethren, seems to us very doubtful. Perhaps neither event would be altogether for the benefit of art. Our taste in singing inclines decidedly towards mixed choruses. There is no question that when men and women sing together we have a higher class of music, and a more delicate, refined, and truly cultivated execution of it than when men sing alone. We should be sorry to see the growth of mixed choruses checked by too strong a development of the Sængerbund theory, which—at least in its present form—is only adapted to the usages of male societies. Let us share a little in the German contests, and imitate, if we can, the German readiness for simple, harmless, and cordial enjoyment; but when we have learned by this what capacity for musical eminence we really possess, we may as well hold our great celebrations in our own way. The German is satisfied if his festival be merry; the American demands first that it shall be big. But the difference is not only here. With the Germans, merriment in the audience and extraneous amusements to fill out the day will compensate for a weak chorus and a slovenly orchestra. Americans care little for the side shows, but sit soberly through the chief entertainment, and that must be the grandest of its kind. Mr. Gilmore knew what he wanted when he added to popular airs the booming of a battery, the clangor of bells, the ring of a hundred anvils, and the glare of a hundred red shirts. If he had brought ten thousand men together, demoralized them with parades and banquets, got them to sing indifferently well, and then filled up his Jubilee with excursions, ice cream, and sherry-cobblers, he would have failed. But half his singers were ladies, and that made all the difference in the world. It kept the chorus in condition. It diffused through the Coliseum that air of gentility which the average American so dearly loves. It gratified our national fondness for the female voice. It gave us much better singing than we could possibly have got from men alone. And when to all this was added that grotesque element of gigantic slam-bang, his audience felt that their cup of happiness was full. The American ideal of a festival was realized. A critical musician looks upon such jubilees with little relish; yet even a critical musician must confess that, so far as the development of taste and the creation of art-enthusiasm are concerned, they are better adapted to the character of our people than German Sængerfests. The Jubilee of 1869 really did a great deal for popular music; and the Jubilee of 1872, which is to bring together either in Boston or New York the bands of all nations and a chorus that for bigness has never been equalled, we dare say will do a great deal more, even though it should be very far removed from the region of high art itself.

THE DESPERATE LEASE.

From the N. Y. World.

The engineers of the New Jersey lease are becoming very desperate. They are resorting to means which, if there be such an offense known to the Pennsylvania code as "conspiracy," and such a thing as an unbought grand jury, may bring them within the purview of the law. For example, we learn that the Philadelphia Board of Brokers—being, of course, like everything else in that community, the property of the Pennsylvania monopoly—have resolved that hereafter no stock of either of the united companies shall be dealt in or "considered a good delivery" "unless it has been subscribed as assenting to the lease." In other words, these privileged stock dealers refuse to perform the functions for which they are licensed, and insist upon the enforcement of a condition entirely alien to the contract of purchase and sale. No stock can be sold unless the holder signs for the lease. Of course he, being about to divest himself of his interest, does not care a farthing what becomes of the corporation afterwards, and the purchaser, the party of substantial interest, has no volition about it. In order to clinch the matter the transfer books are closed from the 28th instant to the 8th of July, by order of a chairman of some committee, and all assents to the lease are to be on the stock as held at the time the books are closed. This is *duress* with a vengeance. No one can sell through a broker without signing, and if he sells without a broker's agency he must sign before he can make a transfer of his stock. A greater outrage can hardly be imagined. A New York broker's board will not so prostitute itself, and no New York corporation, however unscrupulous, would put such conditions and restraints on the legitimate dealings in its capital.

Nor is this all. We have referred to the judicial redress which some parties interested are seeking in New Jersey. The *Public Ledger*, of Philadelphia, one of the lease-mongering organs, on this head says, and we regret to see the Newark *Daily Advertiser* adopt the suggestion:—

"Even if the court should grant the injunction, which is problematical, it is altogether probable that the next Legislature will perfect any defect that may be necessary to carry out its own law, drawn up, as we have been informed, by Judge Bradley, and drawn up and passed too, as is said, for the very purpose of effecting the proposed lease."

Unfavorable as is the judgment we have been compelled to form of Mr. Justice Bradley, we have never so far disparaged him as thus do his professing friends. If the statute which he drew had reference to this lease why did he not say so? There is a form of words familiar to every Newark conveyancer which would have attained this end, and yet this was studiously avoided and a phraseology used not unlike that as to the building of the old Capitol at Albany to which Governor Hoffman alluded the other day, or Mr. Thaddeus Stevens' charter of the Bank of the United States (*absit omen*), under the title of "An act to repeal the State taxes and for other purposes." Judge Bradley's act reads thus:—

"*Be it enacted, etc.*, That it shall and may be lawful for the said United Companies, by and with the consent of two-thirds in interest of the stockholders of each, expressed in writing and duly authenticated by affidavit, and filed in the office of the Secretary of State, to consolidate their respective capital stock, or to consolidate with any other railroad or canal company or companies, in this State or otherwise, with which they are or may be identified in interest, or whose works shall form, with their own, continuous or connected lines, or to make such other arrangements for connections or consolidation of business with any such companies, by agreement, contract, lease, or otherwise, as to the directors of the said United Companies may seem expedient, etc."

Now if in 1870 Mr. Bradley meant what is imputed to him—this very lease to this very company—why, we repeat, did he not say so, instead of wrapping up his meaning in this mass of clumsy verbiage? If, having this in view, he purposely devised a mysterious form of phrase in order to mislead the Legislature and sacrifice the companies to which he was bound by so many ties of gratitude, then we do not hesitate to say with emphasis that he is—worthy to be a colleague of the other corporation solicitor who thinks Congressional legal-tenders constitutional. The whole thing is simply scandalous, and being so brazen shows the desperate straits, the lawless passion to be gratified at any cost, of the Sir Mulberry Hawk of Pennsylvania.

New Jersey, after all, is most interested. Philadelphia is, we are glad to see, starting in her sleep. The spectre of Harsimus Cove shakes its warning finger across the Delaware. The city fathers begin to see that they subscribed millions to build up Jersey City, and one of their own newspapers says with bitter mockery:—

"The action of our City Councils in this matter on Thursday last looks very much like locking the door after the horse is stolen. The managers of the Pennsylvania Railroad Company have concluded their part of the contract, and the officers are directed to execute the papers as prepared, behind which it does not seem to us very clear how the city directors in the company can go."